

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 CHARLES PARTRIDGE,

Case No. 2:19-cv-01355-RFB-VCF

4 Plaintiff

ORDER

5 v.

6 JAMES DZURENDA et al.,

7 Defendants  
8

9 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. §  
10 1983 by a state prisoner. On July 28, 2021, the Court issued an order dismissing the  
11 second amended complaint with leave to amend and directed Plaintiff to file a third  
12 amended complaint within 30 days. (ECF No. 9 at 6). The 30-day period has now  
13 expired, and Plaintiff has not filed a third amended complaint or otherwise responded to  
14 the Court's order.

15 District courts have the inherent power to control their dockets and “[i]n the  
16 exercise of that power, they may impose sanctions including, where appropriate . . .  
17 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
18 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
19 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
20 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for  
21 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
22 1992) (affirming dismissal for failure to comply with an order requiring amendment of  
23 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal  
24 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
25 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming  
26 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
27 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
28 local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey  
2 a court order, or failure to comply with local rules, the court must consider several factors:  
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously  
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
12 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
13 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
14 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
15 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
16 the court's order will result in dismissal satisfies the "consideration of alternatives"  
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
18 F.2d at 1424. The Court's order requiring Plaintiff to file a third amended complaint within  
19 30 days expressly stated: "It is further ordered that, if Plaintiff fails to file a third amended  
20 complaint curing the deficiencies outlined in this order, the Court will dismiss this action  
21 with prejudice for failure to state a claim." (ECF No. 9 at 6). Thus, Plaintiff had adequate  
22 warning that dismissal would result from his noncompliance with the Court's order to file  
23 a third amended complaint within 30 days.

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1           It is therefore ordered that this action is dismissed with prejudice based on  
2   Plaintiff's failure to file a third amended complaint in compliance with this Court's July 28,  
3   2021, order and for failure to state a claim.

4           It is further ordered that the Clerk of Court will close this case and enter judgment  
5   accordingly.

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7           DATED THIS 7 day of February 2022.

A handwritten signature in black ink, appearing to be 'RFB', is written above a horizontal line.

RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE